

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA

3 HONORABLE ANDREW J. GUILFORD, JUDGE PRESIDING

4 BRUCE CAHILL, ET AL., )

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6 Plaintiffs, )

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8 Vs. )

No. SACV16-0686-AG

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10 PAUL PEJMAN EDALAT, ET AL., )

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12 Defendants. )

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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17 MOTION HEARING

18 SANTA ANA, CALIFORNIA

19 MONDAY, MAY 8, 2017

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22 MIRIAM V. BAIRD, CSR 11893, CCRA  
23 OFFICIAL U.S. DISTRICT COURT REPORTER  
24 411 WEST FOURTH STREET, SUITE 1-053  
25 SANTA ANA, CALIFORNIA 92701  
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A P P E A R A N C E S

**IN BEHALF OF THE PLAINTIFFS,  
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**IN BEHALF OF THE DEFENDANTS,  
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1 SANTA ANA, CALIFORNIA; MONDAY, MAY 8, 2017; 10:45 A.M.

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4 THE CLERK: Item five, SACV 16-686-AG, Bruce Cahill  
5 vs. Paul Pejman Edalat.

6 MR. MARKHAM: John Markham for all of the  
7 plaintiffs and counterclaim defendants.

8 Good morning, Your Honor. By the way, I'm already  
9 cutting my exhibit list based upon the comments that you  
10 made. A good test is if you're not going to talk about it in  
11 closing, why are you wasting everybody's time with it.

12 THE COURT: Sir, bless you. Actually, I --

13 MR. MARKHAM: It's more effective. I know that.

14 THE COURT: It's an interesting point. I'll just  
15 say, I guess, even on the record. I tried cases for  
16 30 years. I don't think I ever had a case where I didn't bat  
17 over 800; meaning, 80 percent of the exhibits on my exhibit  
18 list were at least referenced. It seems to be -- we had a  
19 case, what do you think they were batting?

20 THE CLERK: Five.

21 THE COURT: They were batting five percent. We had  
22 five digits of exhibits, as in over 10,000. 600 got  
23 introduced. 80 percent is a good rule to aim for.

24 All right. You curried my favor. You have it,  
25 sir. Now we move to Mr. Kashani. How are you? You've been

1 before me in many times. In your last trial here, what did  
2 you bat? I don't remember. We'll leave it at that. You can  
3 plead the Fifth Amendment.

4 MR. KASHANI: I think it was pretty good. I know I  
5 ran most of them on the screen. It was technical, so a lot  
6 of them were diagrams. I think we ran most of them on the  
7 screen. I know we had to bring in another monitor to show  
8 them all. We must have been using a lot of them--

9 THE COURT: Were you quick drying cement?

10 MR. KASHANI: Exactly.

11 THE COURT: Calcium aluminum sulfide or sulfate.

12 MR. KASHANI: That was the issue in the Federal  
13 Circuit.

14 THE COURT: Here we are again. All right. You  
15 have my tentative, sir. Having received my blessing for your  
16 enlightenment on exhibits, you probably don't like my  
17 tentative. Would you like to address it?

18 MR. KASHANI: Your Honor, I'm grateful for the  
19 additional time. There are two issues --

20 THE COURT: I was asking whether the plaintiff  
21 wanted to address it.

22 MR. KASHANI: Oh.

23 MR. MARKHAM: Your Honor, I have to say, in light  
24 of the reason, I can't say that -- I mean, I would be happy  
25 to have it the way we wanted it. There is some pain being

1 inflicted by these posts. I made that argument --

2 THE COURT: I'm going to get to that.

3 MR. MARKHAM: If the Court wants us to be ready by  
4 the date in July, July 25th, that's certainly gives him  
5 enough time. The one suggestion I would have, Your Honor,  
6 would be -- I hope I'm not opening the door to further delay  
7 of the trial, which I really would argue against. If the  
8 Court is going to set the trial for July 25th, setting the  
9 pretrial conference for July 10th, if that doesn't  
10 inconvenience the Court, would give Mr. Kashani more time to  
11 do the voluminous paperwork involved in that. And I don't  
12 know whether the Court needs an entire month before the trial  
13 for the pretrial conference. And I note that when you  
14 originally set the case for June 13th, the pretrial  
15 conference was shorter before that than the amount the Court  
16 has allowed now. I don't know whether it impacts on the  
17 Court's other scheduling. That would seem to be an  
18 accomodation that would take some of the pressure off.

19 With that --

20 THE COURT: I also want you now to address this  
21 issue of postings. The Court is very concerned about that  
22 and believes, perhaps, it needs to take corrective actions on  
23 the issue of postings. So talk to me about that.

24 MR. MARKHAM: Very well, Your Honor --

25 THE COURT: I must say also here's the problem with

1 July 10th. I will be sitting by designation on the Ninth  
2 Circuit in San Francisco. That's why that -- there's that  
3 variation. I can't help it. I don't think there's any way I  
4 could back out now. On July 10th, I will be in San Francisco  
5 hearing Ninth Circuit Appeal cases. So I am sorry that  
6 moving it to July 10th will not work.

7 So tell me about the postings. What are they  
8 posting? What do you propose I do other than get this to  
9 trial and over with as soon as possible?

10 MR. MARKHAM: Well, you know, the truth, the  
11 announcement we hope from jury verdict that these assertions  
12 that Mr. Cahill, who is a UCI very respected long time  
13 trustee. He is a venerated person. To say on record that he  
14 has committed sexual assault -- which is what the record  
15 shows; we got it in the exhibits -- with Olivia Karpinski  
16 being the designated author, and her picture being on it. No  
17 question it came from her.

18 After she did that, she went to the Irvine Police  
19 to file a complaint. The police asked her what happened.  
20 This is in the record. She said well, he tried to kiss me  
21 once after we got a contract coming to the company when I was  
22 working for the company. The police officer said, it's very  
23 suspect that you're coming in 11 months after this happened  
24 and only after he sued you, but by the way, even if he did  
25 kiss you, that is not sexual battery. She still didn't take

1 it down.

2 So when he --

3 THE COURT: She still didn't take it down?

4 MR. MARKHAM: No. They're still up. They're  
5 increasing. They're doing it through anonymous sources. I  
6 don't know I'll be able to prove that at trial. They have on  
7 the record, they have comparisons to Cahill with noted  
8 criminals of the past. They have had -- that he sexually  
9 assaulted her. They have put up identified by Edalat. They  
10 put my credit record up. He posted my credit record. My  
11 wife has had to lock down my credit. I don't need any new  
12 credit cards. I couldn't get one right now. There is a  
13 credit lock. He did this, Your Honor, after telling these  
14 people, if you go ahead with this, you don't know who you are  
15 effing with. He posted that. He's brazen about it. Just  
16 like he was brazen in his deposition.

17 Now, all of this deserves a trial. Our clients  
18 deserve to get this over with. I don't think that the Court  
19 can consistent with the First Amendment, without getting into  
20 a very complicated issue, order them taken down. I -- I made  
21 an argument earlier in the case when they first came up,  
22 Your Honor, that these posts were not covered by the First  
23 Amendment because their calculated stated reason was I want  
24 you to stop this lawsuit. Statements made to people  
25 threatening to stop a lawsuit are obstruction of justice and

1 they are not covered by the First Amendment.

2 So we could make that argument, but what I've  
3 counseled my client is the best way to do this is not to try  
4 to get Judge Guilford out on a ledge that he wouldn't go on  
5 before and seek a restraining order or to tell him to take  
6 them down, but to get it over with. So that if these are  
7 all -- by the way, they're more. One of the defendants was  
8 accused of being a tax evader. One of defendants was accused  
9 of manipulating a church for the purposes of tax cheating.  
10 One of the defendants it was alluded that we know what you do  
11 over in Thailand when you go over there.

12 There are all of these aspersions. They're there.  
13 He was questioned about them. He didn't deny them in his  
14 deposition. After we had to have his deposition taken in  
15 front of a magistrate, at the magistrate's request, because  
16 the magistrate said that this was the worst deposition he's  
17 ever read. The first time we tried to depose him. So,  
18 Your Honor, we believe that the only way for our people to  
19 get the remedy that they deserve like any litigant that comes  
20 into this court is to get this over with.

21 Now, of course, due process is due process. If it  
22 turns out that we don't make our case; that this is all  
23 blatantly false, then we don't. Because the evidence of it  
24 is so sketchy and shaky and it's been denied and so damaging,  
25 the remedy is truth. You know, everybody else who comes into



1 this courtroom today is worried about the questions you're  
2 going to ask them and what you thought of that maybe they  
3 haven't thought of. Their mind is on that. Their --  
4 parties' minds are on that. You're the person they have to  
5 worry about. When my clients come into this courtroom,  
6 they're worried that some scurrilous thing is going to go up  
7 against them just because they've been here, and I said  
8 something and it gets posted.

9 That's not what should happen here. We are between  
10 an arguable First Amendment violation and an argument that  
11 this is not covered by the First Amendment. Rather than  
12 getting into that, I would just like to get this over with,  
13 as would my clients. It was set for June 13th. It was set  
14 for June 13th. We planned the case for June 13th.  
15 Mr. Edalat has gone through several lawyers. He's now come  
16 up with a lawyer who has a special problem. It's hard to  
17 argue against that problem, but we don't need 90 days for it.

18 What I would like to do, Your Honor, is to have a  
19 firm date to get this trial over with so we can plan so that  
20 when it is anticipated that there will be no sexual assault  
21 proven, no tax cheating proven, none of that proven, we can  
22 go out and say a jury has concluded as follows. He can write  
23 to the University Trustees of the University of Irvine where  
24 he sits on the board and on several special committees and  
25 for all of the charity work that he does out of his house.

1 That all of this has been vindicated. That's what we want.  
2 The best way to get it is to go to trial.

3 Thank you for listening, Your Honor.

4 THE COURT: Mr. Kashani, what why do we have to  
5 complicate it with these scurrilous postings? Are we trying  
6 this case on the Internet?

7 MR. KASHANI: Your Honor, I have -- these postings,  
8 I think with one exception, all predated me. I can assure  
9 you I had nothing to do with any of them. I can also assure  
10 you that I have had the sternest possible words with my  
11 client regarding all of this. It's not something I'm fond  
12 of. I've never done. Your Honor knows I tried a very long  
13 case in here twice, which had a lot of public contracting  
14 involved. Where, frankly, postings might have had an effect  
15 on pending contracts. My clients posted absolutely nothing,  
16 said absolutely nothing. Even -- in fact, the only press  
17 releases were from the other side. So, you know, we --  
18 that's not something I do or like to do.

19 I -- I think cases should be tried here. I think I  
20 pointed out some of the evidence in our opposition to their  
21 ex parte -- opposition -- in reply to the motion that  
22 indicates that I am reviewing the evidence and testimony and  
23 contradictions in the testimony and not scurrilous statements  
24 in the postings outside. That's what I want to focus on.

25 I think that they have brought to the Court's

1 attention in an ex parte one Huffington Post article that  
2 postdates -- I'm not sure it postdates my involvement. I  
3 think they mentioned it. I'm not sure -- I don't recall the  
4 date of the Huffington Post article. I think on the ex  
5 parte, which the Court -- their ex parte denied. We showed  
6 there is an author there. I don't know how reliable he is.  
7 Contrary to their assertion, it's not just Mr. Edalat in  
8 disguise. He did tweet it, which he should not have done.  
9 He did. He tweeted the article, which he should not have  
10 done.

11 Without getting into privilege issues, I can tell  
12 you that anything like that is contrary to -- let's just say  
13 the general instructions I give my clients in every case.  
14 You know, I think the last case was pretty high profile in  
15 terms of the effect on contracting in the state, a lot of  
16 money involved. Your Honor can check the record. I have had  
17 other cases in the federal courts. There have been times  
18 when I have declined to comment when the U.S. Attorney has  
19 commented. I have not responded even at times.

20 So that's the way I see it. I wish I could  
21 guarantee nothing going forward. I wish I could. I have  
22 made it very clear to my clients the dire consequences of  
23 anything going forward. That's all I can do here as the  
24 attorney here in the case.

25 THE COURT: All right.

1 MR. KASHANI: In terms of the scheduling,  
2 Your Honor --

3 THE COURT: Before we get to that. I want to  
4 conclude on these postings. Postings that the plaintiff is  
5 using to ask for appropriately an earlier trial date. On the  
6 issue of postings, if I find them inappropriate or I find  
7 them a threat to influencing a jury, because they are public  
8 postings -- I want to make sure you're listening,  
9 Mr. Kashani.

10 MR. KASHANI: I'm taking down what you're saying,  
11 Your Honor. I'm writing it down word for word.

12 THE COURT: Okay. If I find them to be an  
13 inappropriate interference or if I find them to be trying  
14 this case outside of this courtroom, I reserve the right to  
15 make powerful statements to the jury during voir dire and  
16 after jury selection as to those comments. As in voir dire,  
17 ladies and gentlemen of the jury, unfounded scurrilous  
18 comments have been made by defendant against the plaintiffs.  
19 Have any of you heard of such scurrilous comments? That's a  
20 possibility, depending on the nature of the comments and how  
21 things develop.

22 So I am aware of the First Amendment, but I'm also  
23 aware of my requirement to provide a fair trial. That  
24 requirement might best be met with informing the jury about  
25 this in the selection process or later. So that is my

1 response to the posting issue.

2 Now, let's move to the scheduling issue, which you  
3 further wanted to address.

4 MR. KASHANI: First of all, on the postings I took  
5 it down word for word so I can tell my clients word for word.

6 THE COURT: Good.

7 MR. KASHANI: So they understand that. I will make  
8 them to understand the dire consequences if this activity  
9 reoccurs.

10 Regarding the scheduling, well -- I mean, I did ask  
11 for more time. That's obviously within the Court's  
12 discretion. I am grateful for the extension the Court did  
13 give. Regarding the question of the pretrial conference, the  
14 original schedule was the pretrial conference was, I believe,  
15 two or three weeks, was it, before the trial date, I believe.  
16 May 23rd to June 13th. That would be three weeks. Now we  
17 have it somewhat earlier than that.

18 I understand the Court's schedule. Is there some  
19 way to accommodate a later pretrial conference, because as  
20 Mr. Markham points out, the sheer amount of paperwork, the  
21 number of pleadings, which I would like to reduce, frankly.  
22 I think there are too many claims made in this case. I'll  
23 say right now I think there are a lot of counterclaims that  
24 don't belong here. If there were a procedural way to move  
25 them somewhere else or move them later in time, I will do

1 that.

2 THE COURT: Ms. Bredahl, we're talking about a  
3 pretrial conference in this case. The case is set for  
4 July 25th. We have set the pretrial conference for  
5 June 26th. You are proposing that it be set for sometime in  
6 mid-July?

7 THE CLERK: We're dark.

8 THE COURT: Is that what you're proposing?

9 MR. KASHANI: Yes. Alternatively, -- I know this  
10 is going to sound really bad -- if the Court is out all of  
11 July, if the trial could be moved very slightly just a few  
12 days so the pretrial conference could come after the Court's  
13 session on the Ninth Circuit.

14 THE COURT: I am afraid looking at my calendar I  
15 have to keep it on the 26th. It's the best we can do.

16 MR. KASHANI: Is the 18th possible? I don't mean  
17 to bargain.

18 THE COURT: Are you saying July 18th?

19 MR. KASHANI: July 18th.

20 THE COURT: Not possible. Okay.

21 There we have it. There's nothing further. The  
22 tentative will be the ruling of the Court.

23 MR. KASHANI: Thank you, Your Honor.

24 MR. MARKHAM: Thank you, Your Honor.

25 (Proceedings concluded at 11:02 a.m.)

## 1 CERTIFICATE

2 I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT  
3 TRANSCRIPT OF THE STENOGRAPHICALLY RECORDED PROCEEDINGS IN  
4 THE ABOVE MATTER.

5 FEES CHARGED FOR THIS TRANSCRIPT, LESS ANY CIRCUIT FEE  
6 REDUCTION AND/OR DEPOSIT, ARE IN CONFORMANCE WITH THE  
7 REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

8  
9 /s/ Miriam V. Baird

06/22/2017

10 MIRIAM V. BAIRD  
11 OFFICIAL REPORTER

DATE